

**DATE:** November 13, 2008

**TO:** CVRC Board of Directors

**VIA:** Scott Tulloch, Interim Chief Executive Officer *ST*

**FROM:** Eric Crockett, Assistant Director of Redevelopment and Housing *E. Crockett*

**SUBJECT:** Tomra Pacific, Inc. rePlanet Recycling Center (PCC-08-020)

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**BACKGROUND:**

This is a public hearing to consider an application for a conditional use permit for a small recycling buy-back center in the Sav-a-Lot parking lot located at 1315 Third Avenue in the Southwest Redevelopment Area. The project was initially processed administratively because it met Chula Vista Municipal Code (CVMC) requirements pursuant to Section 19.58.345 (B), which states *"Small collection facilities occupying an area of no more than 300 square feet may be permitted as an accessory use subject to approval of a conditional use permit granted by the Zoning Administrator."* However, during the public noticing period, staff received two petitions and a letter opposing the project. As a result, staff held a neighborhood meeting, which included the applicant, to listen to resident concerns and discuss location options. During the meeting, it became clear that regardless of where the center could locate, the residents were adamantly opposed to the center being located anywhere in the vicinity.

The Zoning Administrator took the resident's concerns under consideration and decided to elevate the project to a public hearing before the CVRC pursuant to CVMC Section 19.14.050(A), which states *"The Zoning Administrator, at her/his option, may refer any of the matters on which she/he is authorized to rule and/or issue a permit to the Planning Commission for review."* In this case, the project is referred to the jurisdiction of the CVRC for a decision because the site is within a redevelopment area.

**ENVIRONMENTAL DETERMINATION:**

The Environmental Review Coordinator has reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the project qualifies for a Class 3 categorical exemption pursuant to Section 15303 (new construction or conversion of small structures) of the State CEQA Guidelines. Thus no further environmental review is necessary.

**RECOMMENDATION:**

Deny the application for the Conditional Use Permit application (PCC-08-020) based on the finding of facts described in Attachment 1 - CVRC Resolution.

**DISCUSSION:**

In 2007, the City Council had directed staff to investigate the existing rePlanet recycling center following a citizen's complaint about the number of transients who loiter around the center daily. During the investigation, staff discovered the rePlanet center was operating without the required CUP, which became a Code Enforcement case. Over the course of many years, there has been a recycling operation in the same location, beginning with 20/20 Recycling, which obtained approval of a conditional use permit in 1988. The rePlanet Recycling Center was established in 2002 in the same location, but did not obtain a CUP. The rePlanet center is a different type of center in terms of size and equipment, which would have required a modification to the CUP in effect. Staff has been working with the applicant to obtain the required CUP ever since.

**Site Description**

The project site is in the north parking lot for the Sav-a-Lot store located at 1315 Third Avenue and adjacent to Palomar Street, in southwestern Chula Vista, within the Merged Chula Vista Redevelopment Project area. The site is level and represents approximately 500 square feet of a 2.45- acre lot (See Attachment 2 - Locator, and Attachment 3 - Aerial Photo). The existing land uses on and adjacent to the subject site, as well as the land use designations, are shown in the table below.

	General Plan Designation	Zoning Designation	Existing Uses
Site	Commercial Retail (CR)	Central Commercial (CC)	Sav-a-Lot
North	Mixed use Residential (MUR)	Central Commercial, Precise Plan (CCP)	Shell, 1 SFR, Der Weinerschnitzel, Homeland Security & Immigration Offices, Children's Hospital, Offices
East	Residential High (RH)	Apartment Residential (R-3)	Multi-Family Residential Complex

South	Commercial Retail (CR)	Central Commercial (CC)	Rite Aid, Auto Zone, Factory 2 U
West	Commercial Retail (CR)	Central Commercial - Precise Plan (CCP)	Palomar Plaza

The rePlanet recycling center consists of two roll-off mobile containers behind a small building façade used to collect recyclable items that qualify for CRV (California Redemption Value). The center is located at the north parking lot of the Save-a-Lot store. The center operates by receiving recyclable items from patrons in exchange for a voucher receipt. In turn, patrons can redeem the voucher in the Save-a-Lot store. The facility is open for business daily from 8:00 a.m. to 4:30 p.m. and operated by an on-site, rePlanet uniformed staff.

Chula Vista Municipal Code Section 19.58.345 states that recycling centers may be permitted with a conditional use permit in commercial or industrial zones, and within a convenience zone identified by the state of California Department of Resources, under the California Beverage Container Recycling and Litter Reduction Act. A convenience zone is typically a half-mile radius around a supermarket. In this case, the Sav-a-Lot market is within a convenience zone. The City is not mandated by the state to approve such centers.

During the public noticing period, staff received petitions opposing the recycling center's location. The petitions submitted by many residents raised the following issues:

- Offensive odors from trash and transients urinating and defecating against the wall adjacent to the apartments;
- Unreasonable noise from glass smashing and crushing and fighting and yelling between transients;
- Trash dumped on the apartment property over the grass to sort out recyclable items before going to the recycling center;
- Transients leave their shopping carts along the curb in front of the apartments;
- Trespassing by transients searching for recyclable items on residential property; and
- Security concerns

According to the Park Palomar Apartment manager, some residents moved out because of this activity and the police have responded to several calls to the vicinity of the recycling center as well.

Staff and the applicant searched for other potential locations off the project site near other commercial and industrial uses away from residential areas, but store owners and landlords would not consider siting the recycling center on their property.

Based on the public input received, staff is recommending denial because the findings can be made that the project would be a detriment to the health and welfare to the surrounding residential neighborhood.

**DECISION-MAKER CONFLICT:**

Staff has reviewed the property holdings of the CVRC Board and has found no property holdings within 500 feet of the boundaries of the property that is the subject of this action.

**FISCAL IMPACT:**

There is no fiscal impact associated with the Project.

**ATTACHMENTS:**

1. CVRC Resolution
2. Locator Map
3. Aerial Map

**PREPARED BY:** Michael W. Walker, Senior Planner

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## CVRC RESOLUTION NO. 2008-

**RESOLUTION OF THE CHULA VISTA REDEVELOPMENT CORPORATION DENYING CONDITIONAL USE PERMIT (PCC-08-020), TO OPERATE A SMALL REPLANET RECYCLING BUY BACK CENTER LOCATED AT 1315 THIRD AVENUE IN THE CITY OF CHULA VISTA**

WHEREAS, the parcel, which is the subject matter of this resolution, is represented in Attachment 2 attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 1315 Third Avenue, Chula Vista; and

WHEREAS, on March 27, 2008, a duly verified application for a Conditional Use Permit (PCC-08-020) was filed with the City of Chula Vista on behalf of Tomar Pacific, Incorporated ("Applicant") to operate a recycling buy back center consisting of two 8' x 20' roll-off containers and a small building façade used to collect recyclable items that qualify for CRV (California Redemption Value) at the north parking lot of the Save-a-Lot store, located at 1315 Third Avenue ("Project"); and

WHEREAS, the Project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and based on this review the Environmental Review Coordinator determined that the project qualifies for a Class 3 categorical exemption pursuant to Section 15303 (new construction or conversion of small structures) of the State CEQA Guidelines. Thus no further environmental review is necessary; and

WHEREAS, a hearing time and place was set by the Chula Vista Redevelopment Corporation ("CVRC") for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, the Chula Vista Redevelopment Corporation held a duly noticed public hearing to consider said application at the time and place as advertised, namely November 13, 2008 at 6:00 p.m. in the Council Chambers, 276 Fourth Avenue, before the Chula Vista Redevelopment Corporation and said hearing was thereafter closed; and

NOW, THEREFORE, BE IT RESOLVED that the Chula Vista Redevelopment Corporation does hereby find, determine, and resolve as follows:

The Project and Conditional Use Permit (PCC-08-020) are denied based on the following finding of facts in accordance with Chula Vista Municipal Code Section 19.14.080:

1. That the proposed use at this location is not necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

The Project is undesirable in the area because many residents adjacent to, and within the vicinity of the recycling center have raised concerns about the transients who loiter around the center bringing and leaving shopping carts, trespassing, rummaging through trash receptacles, and stealing recyclable items from private property. Residents have called the Police Department several times to the area because the evidence indicates that these incidences are associated with the recycling center. The applicant searched for other potential locations in other commercial and industrial areas away from residential areas, but storeowners and landlords would not consider siting the recycling center on their property. Based on this, the Project would negatively contribute to the general well being of the community.

2. **That such use will, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

The Project will be a detriment to the residents in the area because of the continual negative activities associated with the recycling center including offensive odors from trash and transients urinating and defecating against the wall adjacent to the apartments; unreasonable noise from glass smashing and crushing; fighting and yelling among transients; trash dumped on residential property; transients leaving shopping carts along the curb in front of the adjacent apartments; transients trespassing on residential property in search of recyclable items; and security concerns.

3. **That the proposed use will comply with the regulations specified in the code for such use.**

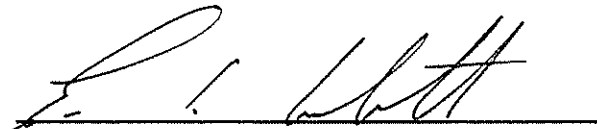
The Project and its location, complies with the applicable regulations and standards specified in the Municipal Code for recycling center use. Although the use complies with all City zoning and building regulations, this is a discretionary action, and as part of the discretionary review, aspects of the Project must be considered including potential impacts to the health, safety and well being of persons living and working in the vicinity. As stated in Findings 1 and 2, the Project is a detriment to the surrounding community therefore, the Project should be denied.

4. **That denial of this Conditional Use Permit will not adversely affect the General Plan of the City and the Urban Core Specific Plan.**


Although the Project conforms to the City of Chula Vista General Plan and Zoning Ordinance, the Project conflicts with General Plan Land Use and Transportations Element (LUT) Objective 35, "Revitalize and protect existing stable residential neighborhoods in the Southwest Planning Area from adverse land use impacts" and LUT Policy 35.4 "Focus on historic preservation; safety and security; and code enforcement efforts within older neighborhoods in the Southwest Planning Area." The Project impacts Objective 35 because the residents are subjected to various actions and activities,

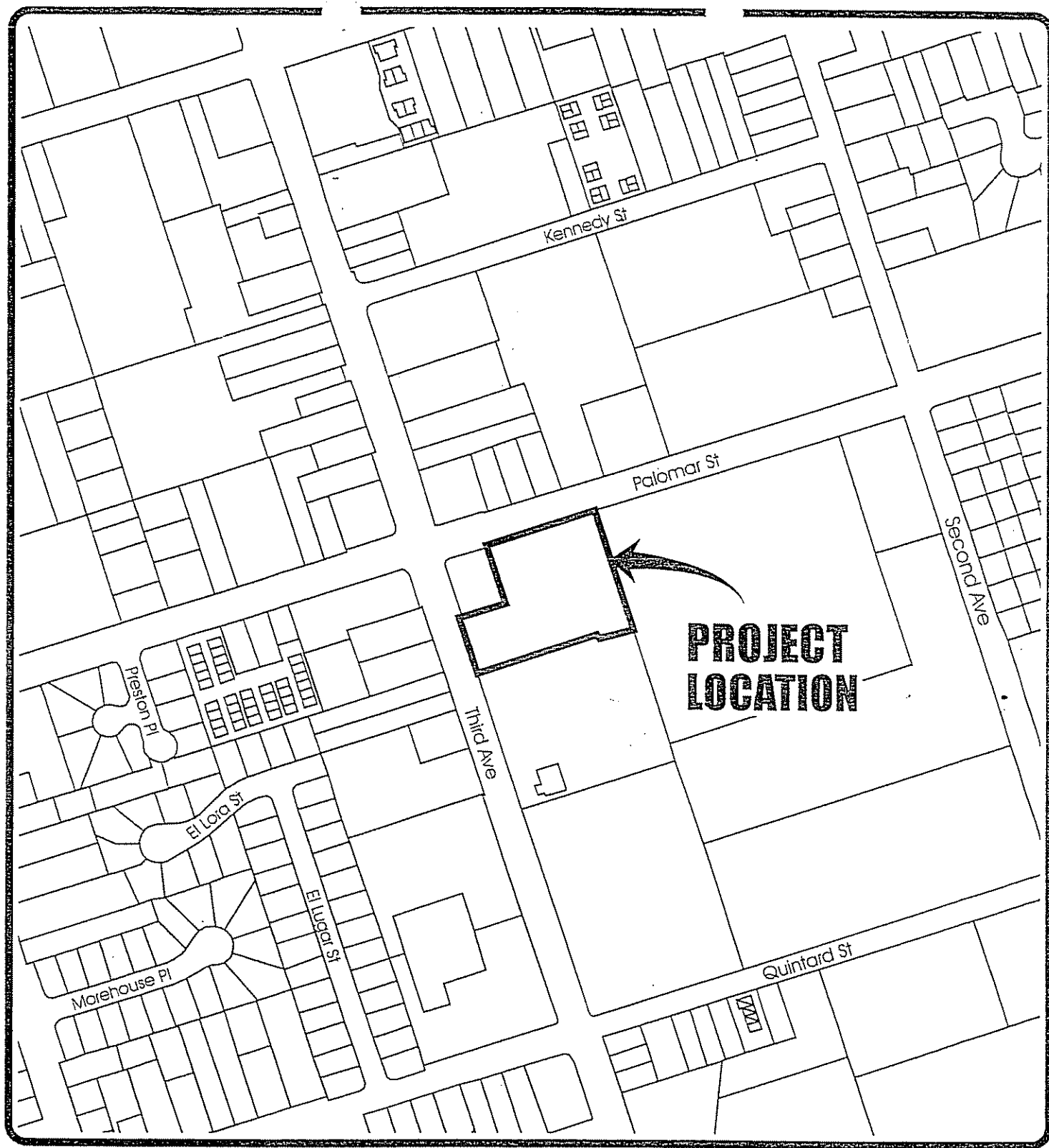
stated in Finding 2, by transients who frequent the recycling center and the surrounding area. The Project impacts Policy 35.4 because there have been many calls for service for Chula Vista Police response by residents to investigate disturbances in the Project vicinity. The Project also impacts Policy 35.4 because Code Enforcement efforts within older neighborhoods within the Southwest Planning Area are being impacted by continuing attempts to bring the Project into compliance.

PRESENTED BY:

  
Eric Crockett  
Assistant Director of Redevelopment and  
Housing

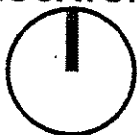
APPROVED AS TO FORM BY:

  
Bart Miesfeld  
Interim General Counsel



# CHULA VISTA PLANNING AND BUILDING DEPARTMENT

## LOCATOR



NORTH

PROJECT APPLICANT:

Tomra Pacific, Inc.

PROJECT ADDRESS:

1315 Third Ave

SCALE:

No Scale

FILE NUMBER:

PCC-08-020

PROJECT DESCRIPTION:

## MISCELLANEOUS

Project Summary: Proposing a Recycling buy back center.

Related cases: None





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Attachment 3

# Jackson|DeMarco|Tidus Peckenpaugh

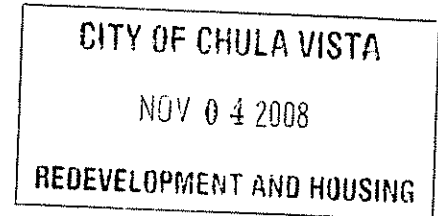
A L A W C O R P O R A T I O N

November 3, 2008

Direct Dial: 949.851.7638  
Email: pgosney@jdtplaw.com  
Reply to: Irvine Office  
File No: 6115-48452

## VIA OVERNIGHT MAIL

Eric C. Crockett  
Assistant Director of Redevelopment & Housing  
City of Chula Vista  
Redevelopment & Housing  
276 Fourth Avenue  
Chula Vista, CA 91910



**Re: TOMRA Pacific, Inc.; Conditional Use Permit No. PCC-08-020  
Request for 30 Day Continuance of November 13, 2008, Hearing**

Dear Mr. Crockett:

We represent TOMRA Pacific, Inc. ("TOMRA"), in connection with its application for Conditional Use Permit No. PCC-08-020 ("Use Permit") to operate a small beverage container recycling and redemption center ("Recycling Center" or "Center") in the parking lot area of the Sav-a-Lot ("Sav-a-Lot") shopping center located at 1315 Third Avenue ("Site") in the Southwest Redevelopment Area of the City of Chula Vista ("City").

As you are aware, the City Redevelopment Corporation ("CVRC") is currently scheduled to consider TOMRA's application for the Use Permit at its next meeting on November 13, 2008. However, due to circumstances beyond its control, TOMRA will be unable to effectively present its case at the November 13 meeting and must respectfully request a thirty day continuance for the CVRC's consideration of its application for the Use Permit. Specifically, the key TOMRA representative who has been working closely with the City on this matter over the course of the past two years and who has the most intimate knowledge of the project, Joe Perez, has a personal matter that requires his attention the week of November 13. As a result, he will be unable to appear on TOMRA's behalf at the November 13 hearing.

Mr. Perez is integral to TOMRA's ability to provide the CVRC with a complete and comprehensive presentation on the merits of the Recycling Center, and TOMRA would be substantially prejudiced if it were forced to present its case to the CVRC without the assistance of Mr. Perez. For this reason, and in light of the significant investments of time (6 years) and money involved in the application for the proposed Center, TOMRA respectfully requests that the CVRC's hearing on the Use Permit be continued for a period of at least thirty (30) days.

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Eric C. Crockett  
Assistant Director of Redevelopment & Housing  
November 3, 2008  
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We appreciate your anticipated cooperation in this request. Please feel free to contact me directly if you should have any questions or concerns about this matter.

Best regards,



Paige H. Gosney

cc: City Council  
Cheryl Cox, Mayor  
Steve Castaneda, Councilmember  
John McCann, Councilmember  
Rudy Ramirez, Councilmember  
Jerry Rindone, Councilmember  
Donna Norris, City Clerk

CVRC Board of Directors  
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Paul Desrochers, Vice Chair  
Rafael Munoz, Director  
Doug Paul, Director  
Hector Reyes, Director  
Christopher Rooney, Director  
Sal Salas, Jr., Director  
Sheryl Fields, CVRC Secretary

City Attorney  
Ann Y. Moore, City Attorney

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